

of Montana into the State of Idaho, of quantities of butter which was alleged to be adulterated and misbranded. The article was labeled in part: "Butter \* \* \* Henningsen Company Butte, Montana."

Analyses of samples of the article by the Bureau of Chemistry of this department showed that the fat content of the said samples ranged from 78.57 to 79.86 per cent and that the moisture content ranged from 15.69 to 16.70 per cent.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, water, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and had been substituted in part for butter, which the said article purported to be. Adulteration was alleged for the further reason that a valuable constituent of the article, to wit, milk fat, had been in part abstracted.

Misbranding was alleged for the reason that the statement, to wit, "Butter," borne on the packages containing the article, regarding the said article and the ingredients and substances contained therein, was false and misleading in that it represented that the article consisted wholly of butter, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of butter, whereas it did not so consist but did consist in part of a product deficient in milk fat and contained excessive water. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale and sold under the distinctive name of another article, to wit, butter.

On November 5, 1923, the case came on for trial before the court and a jury. After the submission of evidence and arguments of counsel the court instructed the jury to find the defendant not guilty on the ground that under the said act no authority existed, at the time of the alleged violation, for the regulation of the Secretary of Agriculture (Circular 136, June, 1919) defining butter.

C. F. MARVIN, *Acting Secretary of Agriculture.*

**12023. Misbranding of Eggine. U. S. v. Charles T. Morrissey (Charles T. Morrissey & Co.). Plea of guilty. Fine, \$50. (F. & D. No. 11433. I. S. No. 6875-r.)**

On January 31, 1920, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Charles T. Morrissey, trading as Charles T. Morrissey & Co., Chicago, Ill., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about December 30, 1918, from the State of Illinois into the State of Missouri, of a quantity of Eggine which was misbranded. The article was labeled in part: "Eggine \* \* \* Chas. T. Morrissey & Co."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it was a mixture of cornstarch, baking powder, and casein, artificially colored with coal-tar dyes, principally tartrazine.

Misbranding of the article was alleged in the information for the reason that the statements appearing in the labeling, to wit, "Eggine," "Use As 12 Eggs," "Same As Eggs," and "can \* \* \* be used instead of eggs in practically all kinds of cooking and baking," were false and misleading in that they represented that the article was an egg substitute and contained the same essential ingredients and constituents as eggs, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was an egg substitute and could be used in the place of eggs in cooking and baking, whereas, in truth and in fact, it was not an egg substitute, did not contain the same essential ingredients and constituents as eggs, and could not be used in the place of eggs in cooking and baking.

On December 27, 1923, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$50.

C. F. MARVIN, *Acting Secretary of Agriculture.*

**12024. Misbranding of lemon pie filler. U. S. v. Hilker & Bletsch Co., a Corporation. Plea of guilty. Fine, \$50. (F. & D. No. 14326. I. S. Nos. 3896-t, 9907-r.)**

On July 22, 1921, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Hilker & Bletsch Co., a corporation, Chicago, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, on or about May 13, 1920, from the State of Illinois into the State of Indiana, and on or about June 12,

1920, from the State of Illinois into the State of Wisconsin, of quantities of lemon pie filler which was misbranded. The article was labeled in part: "Royal Brand Lemon Pie Filler \* \* \* Manufactured By Hilker & Bletsch Company Cincinnati Chicago St. Louis."

Analyses of samples of the article by the Bureau of Chemistry of this department showed that a portion of the said article was an artificially colored mixture of cornstarch, cane sugar, and citric acid, flavored with lemon oil, and the remainder thereof was a white powder consisting of starch, sugar, and tartaric acid, flavored with a small quantity of lemon oil, but containing no eggs.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "Lemon Pie Filler," borne on the labels attached to the cans containing the article, was false and misleading in that the said statement represented that the article consisted wholly of lemon pie filler, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of lemon pie filler, whereas, in truth and in fact, it did not so consist but a portion of the said article consisted of a mixture composed essentially of starch and sugar, flavored with tartaric acid and lemon oil, and contained no eggs or lemon juice, and the remainder thereof consisted in part of a mixture composed essentially of starch and sugar, flavored with citric acid and lemon oil, artificially colored, and contained no eggs or lemon juice. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale and sold under the distinctive name of another article, to wit, lemon pie filler.

On October 20, 1923, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

C. F. MARVIN, *Acting Secretary of Agriculture.*

**12025. Misbranding of Allan's compound extract of damiana and Vitalo. U. S. v. 6 Bottles, et al., of Allan's Compound Extract of Damiana and 19 Bottles, et al., of Vitalo. Consent decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 15765, 15766, 15767, 15768. S. Nos. C-3452, C-3453, C-3454, C-3455.)**

On March 25, 1922, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 49 bottles of Allan's compound extract of damiana, at Natchez, Miss., and 38 bottles of Vitalo, at Vicksburg, Miss., alleging that the articles had been shipped by the Allan-Pfeiffer Chemical Co., from St. Louis, in various consignments, namely, on or about July 9, 1920, and November 21 and December 6, 1921, respectively, and transported from the State of Missouri into the State of Mississippi, and charging misbranding in violation of the Food and Drugs Act, as amended. The compound extract of damiana was labeled in part: (Bottle) "A Tonic For Both Sex;" (carton) "Aphrodisiac \* \* \* For General Weakness \* \* \* Nervous Debility." The Vitalo was labeled in part: (Bottle) "Vitalo \* \* \* Aphrodisiac;" (carton) "Aphrodisiac."

Analyses of samples of the articles by the Bureau of Chemistry of this department showed that Allan's compound extract of damiana consisted of extracts of plant drugs, including nux vomica, sugar, alcohol, and water, and that the Vitalo consisted of extracts of plant drugs, including damiana and nux vomica, sugar, alcohol, and water.

Misbranding of the articles was alleged in substance in the libels for the reason that the labeling was false and fraudulent in that the said articles did not have the curative or therapeutic effects claimed in the above-quoted statements and contained no ingredients or combinations of ingredients capable of producing such effects. Misbranding was alleged with respect to the compound extract of damiana for the further reason that it failed to bear on the label of the carton and bottle a statement of the quantity or proportion of alcohol contained in the said article.

On November 8, 1922, the owners of the property having appeared and consented that the Government might dispose of the product as the court might direct, decrees of condemnation and forfeiture were entered, and it was ordered by the court that the products be destroyed by the United States marshal.

C. F. MARVIN, *Acting Secretary of Agriculture.*